

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

O

RICHARD JAXSON

v.

M.J. HERRERA, ET AL.

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C.A. NO. C-04-529

MEMORANDUM OPINION AND ORDER OF DISMISSAL

On February 22, 2005, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 28). Objections were timely filed (D.E. 31). Having reviewed *de novo* the Magistrate Judge's memorandum and recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, plaintiff's petition for mandamus relief and for "order of instruction" (D.E. 1, 5) are DISMISSED without prejudice for want of prosecution and for failure to state a claim upon which relief can be granted. Additionally, plaintiff's request for a restraining order (D.E. 6) is DENIED.

ORDERED this 31st day of May, 2005.


HAYDEN HEAD
CHIEF JUDGE